
Introduced by Senator Ducheny

February 18, 2005

An act to amend Section 143 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 463, as introduced, Ducheny. Toll roads.

Existing law, until January 1, 2003, authorized the Department of Transportation to solicit proposals and enter into agreements for the construction and lease of no more than 2 toll road projects, and specified the terms and requirements applicable to those projects. Existing law provides that the toll roads constructed under these provisions shall be owned by the state, but leased to a private entity for up to 35 years under the agreement.

This bill, with respect to the agreement entered into by the department for the State Highway Route 125 toll road in San Diego County, would instead provide for a 45-year lease period, and would require that lease period to be reflected in the agreement for that facility dated January 30, 1991, as amended.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 143 of the Streets and Highways Code
- 2 is amended to read:
- 3 143. (a) The department may solicit proposals and enter into
- 4 agreements with private entities, or consortia thereof, for the
- 5 construction by, and lease to, private entities of two public
- 6 transportation demonstration projects. The department shall not

1 enter into an agreement for any new proposals under this
2 authority after January 1, 2003.

3 (b) For the purpose of facilitating those projects, the
4 agreements may include provisions for the lease of rights-of-way
5 in, and airspace over or under, state highways, for the granting of
6 necessary easements, and for the issuance of permits or other
7 authorizations to enable the private entity to construct
8 transportation facilities supplemental to existing state-owned
9 transportation facilities. Facilities constructed by a private entity
10 pursuant to this section shall, at all times, be owned by the state.
11 The agreement shall provide for the lease of those facilities to the
12 private entity for up to 35 years, *except that the agreement for the*
13 *State Highway Route 125 franchise shall provide a 45-year lease*
14 *period, which shall be reflected as such in the State Highway*
15 *Route 125 Development Franchise Agreement, dated January 30,*
16 *1991, as amended.* In consideration therefor, the agreement shall
17 provide for complete reversion of the privately constructed
18 facility to the state at the expiration of the lease at no charge to
19 the state.

20 (c) The department may exercise any power possessed by it
21 with respect to the development and construction of state
22 transportation projects to facilitate the development and
23 construction of transportation projects pursuant to this section.
24 Agreements for maintenance and police services entered into
25 pursuant to this section shall provide for full reimbursement for
26 services rendered by the department or other state agencies. The
27 department may provide services for which it is reimbursed with
28 respect to preliminary planning, environmental certification, and
29 preliminary design of the demonstration projects.

30 (d) (1) Agreements entered into pursuant to this section shall
31 authorize the private entity to impose tolls for use of a facility
32 constructed by it, and shall require that over the term of the lease
33 the toll revenues be applied to payment of the private entity's
34 capital outlay costs for the project, the costs associated with
35 operations, toll collection, administration of the facility,
36 reimbursement to the state for the costs of maintenance and
37 police services, and a reasonable return on investment to the
38 private entity. The agreement shall require that any excess toll
39 revenue either be applied to any indebtedness incurred by the

1 private entity with respect to the project or be paid into the State
2 Highway Account, or both.

3 (2) The authority to collect tolls for the use of these facilities
4 shall terminate at the expiration of the franchise agreement.

5 (e) The plans and specifications for each project constructed
6 pursuant to this section shall comply with the department's
7 standards for state transportation projects. A facility constructed
8 by and leased to a private entity shall, during the term of the
9 lease, be deemed to be a part of the state highway system for
10 purposes of identification, maintenance, enforcement of traffic
11 laws, and for the purposes of Division 3.6 (commencing with
12 Section 810) of Title 1 of the Government Code.

13 (f) The assignment authorized by subdivision (c) of Section
14 130240 of the Public Utilities Code is consistent with this
15 section.